

CCRB INVESTIGATIVE RECOMMENDATION

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|--|---|---------------------------|---|--|--|
| Investigator: Alfredo Gonzalez | Team: Squad #3 | CCRB Case #: 201707840 | <input checked="" type="checkbox"/> Force | <input type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input checked="" type="checkbox"/> O.L. | <input checked="" type="checkbox"/> Injury |
| Incident Date(s) Sunday, 07/30/2017 5:03 AM | Location of Incident: Bleecker Street and Irving Avenue; 83rd Precinct Stationhouse | Precinct: 83 | 18 Mo. SOL 1/30/2019 | EO SOL 1/30/2019 | |
| Date/Time CV Reported Sun, 07/30/2017 2:30 PM | CV Reported At: IAB | How CV Reported: Phone | Date/Time Received at CCRB Fri, 09/22/2017 4:23 PM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------|--------------|
| | | |
| | | |

| Witness(es) | Home Address |
|-------------|--------------|
| | |
| | |

| Subject Officer(s) | Shield | TaxID | Command |
|--------------------------|--------|--------|---------|
| 1. LT Henry Lewis | 00000 | 938853 | 083 PCT |
| 2. SGT Jermaine Aspinall | 4012 | 941368 | 083 PCT |
| 3. POM Paul Mastronardi | 06320 | 955147 | 083 PCT |
| 4. POM Scott Sohn | 22227 | 955515 | 083 PCT |
| 5. An officer | | | 083 PCT |
| 6. SGT Tara King | 02063 | 924684 | 083 PCT |

| Witness Officer(s) | Shield No | Tax No | Cmd Name |
|------------------------|-----------|--------|----------|
| 1. POM Raymond Lewis | 18263 | 916062 | 083 PCT |
| 2. POM David Hernandez | 26287 | 911683 | 083 PCT |
| 3. POF Mary Sobieski | 12192 | 957180 | 083 PCT |
| 4. POM Billy Joseph | 25657 | 962507 | 083 PCT |

| Officer(s) | Allegation | Investigator Recommendation |
|-------------------------|---|-----------------------------|
| A.SGT Jermaine Aspinall | Force: In the vicinity of Bleecker Street and Irving Avenue in Brooklyn, Sergeant Jermaine Aspinall used physical force against § 87(2)(b) | |
| B.POM Scott Sohn | Force: In the vicinity of Bleecker Street and Irving Avenue in Brooklyn, Police Officer Scott Sohn used physical force against § 87(2)(b) | |
| C.POM Paul Mastronardi | Force: In the vicinity of Bleecker Street and Irving Avenue in Brooklyn, Police Officer Paul Mastronardi used physical force against § 87(2)(b) | |
| D. An officer | Force: In the vicinity of Bleecker Street and Irving Avenue in Brooklyn, an officer used physical force against § 87(2)(b) | |
| E. An officer | Abuse: In the vicinity of Bleecker Street and Irving Avenue in Brooklyn, an officer interfered with § 87(2)(b)'s use of a recording device. | |

| Officer(s) | Allegation | Investigator Recommendation |
|------------------|---|-----------------------------|
| F.LT Henry Lewis | Off. Language: In the vicinity of Bleecker Street and Irving Avenue in Brooklyn, Lieutenant Henry Lewis made remarks to § 87(2)(b) based upon her gender. | |
| G.SGT Tara King | Off. Language: At the 83rd Precinct stationhouse, Sergeant Tara King made remarks based upon § 87(2)(b)'s perceived mental state. | |
| H.SGT Tara King | Abuse: At the 83rd Precinct stationhouse, § 87(2)(a), § 87(2)(f) [REDACTED] | |

Case Summary

On July 30, 2018, Captain Patrick Davis of Detective Bureau Grand Larceny Division reported this complaint with IAB on behalf of § 87(2)(b) and § 87(2)(b). This complaint was forwarded to the CCRB on September 22, 2017, under log number 17-36512. There was no video footage available for this incident.

On July 30, 2017, at approximately 5:03 a.m., in the vicinity of Bleecker Street and Irving Avenue in Brooklyn, Lt. Henry Lewis, Sgt. Jermaine Aspinall, PO Paul Mastronardi, and PO Scott Sohn, all of the 83rd Precinct, responded to the location in regards to a dispute, during which Sgt. Aspinall, PO Sohn, and PO Mastronardi allegedly grabbed § 87(2)(b) by his arms and pushed him back onto the ground. During the handcuffing process, an officer allegedly put his knee on § 87(2)(b)'s back, and an officer allegedly bent § 87(2)(b)'s finger, dislocating it (**Allegations A, B, C: Force,** § 87(2)(g) and **Allegation D: Force,** § 87(2)(g)). As § 87(2)(b) was being arrested, she attempted to record the incident, but an officer allegedly “smacked” § 87(2)(b)'s hand to prevent her from doing so (**Allegation E: Abuse of Authority,** § 87(2)(g)). Afterward, Lt. Lewis allegedly told an officer, “Lock that bitch up,” in reference to § 87(2)(b) (**Allegation F: Offensive Language,** § 87(2)(g)). At the 83rd Precinct stationhouse, Sgt. King allegedly called § 87(2)(b) “crazy” and a “psycho” (**Allegations G: Offensive Language, Miscellaneous** – § 87(2)(g)). § 87(2)(b) became frustrated by this, removed her shirt, and tied it around her neck, after which Sgt. King cut the shirt from § 87(2)(b)'s neck and threw it in the garbage, and was allegedly made to sit in the holding cell area with no shirt or bra until another officer saw § 87(2)(b) and provided her with a shirt (**Allegation H: Abuse of Authority, Miscellaneous** – § 87(2)(g)). § 87(2)(b) was arrested for criminal mischief and § 87(2)(b) for assault, but both declined to prosecute.

Findings and Recommendations

Allegation (A) Force: In the vicinity of Bleecker Street and Irving Avenue in Brooklyn, Police Officer Paul Mastronardi used physical force against § 87(2)(b)

Allegation (B) Force: In the vicinity of Bleecker Street and Irving Avenue in Brooklyn, Police Officer Scott Sohn used physical force against § 87(2)(b)

Allegation (C) Force: In the vicinity of Bleecker Street and Irving Avenue in Brooklyn, Sergeant Jermaine Aspinall used physical force against § 87(2)(b)

Allegation (D) Force: In the vicinity of Bleecker Street and Irving Avenue in Brooklyn, an officer used physical force against § 87(2)(b)

§ 87(2)(g)
§ 87(2)(b) alleged that he and § 87(2)(b) were “debating” about something for approximately five minutes in front of 315 Bleecker Street in Brooklyn. § 87(2)(b) was intoxicated but the argument never got physical. During this time, a marked four door police sedan and an unmarked sedan drove down Bleecker Street from Wyckoff Avenue and stopped in front of § 87(2)(b)'s house. Their lights and sirens were not activated. Four officers exited the vehicles and stood outside them, but they did not approach or say anything. § 87(2)(b) then walked away towards the intersection of Irving Avenue and Bleecker Street, which was approximately 25 to 30 feet away from his house, and the officers followed him. § 87(2)(b) and § 87(2)(b) followed him as well and he and § 87(2)(b) continued to argue. When § 87(2)(b) got to the corner, outside of a bar named Boobie Trap, two additional marked police cars arrived. The officers exited their vehicles but did not approach § 87(2)(b) grabbed § 87(2)(b)'s phone from her hand and

threw it. While § 87(2)(b) went to pick it up, three officers grabbed § 87(2)(b) by his arms and pushed him, near his back, onto the ground. § 87(2)(b) tried to stop his fall with his right hand and his right hand and shoulder hit the ground first, and then § 87(2)(b) landed face down on the ground. The officers placed § 87(2)(b)'s hands behind his back and one of them placed their knee on his back. § 87(2)(b) felt an officer use their hands to bend his finger as they were placing his hands behind his back and in handcuffs, at which point he felt his finger move "out of place." He could not see which officer bent his finger. During the handcuffing process, § 87(2)(b) had not moved his body or stiffened his arms and did not physically resist in any way. Aside from the dislocated finger, § 87(2)(b) did not sustain any other injuries as a result of his interaction with the officers.

§ 87(2)(b)'s statement was generally consistent with § 87(2)(b)'s, except where otherwise noted. § 87(2)(b) did not observe when officers began arresting § 87(2)(b) because she was retrieving her phone, but she stated that when she bent down to pick it up, she heard § 87(2)(b) screaming, "Ya'll breaking my hand." § 87(2)(b) turned around and saw § 87(2)(b) face down on the ground in handcuffs with four male officers on top of him. § 87(2)(b) also alleged that an officer grabbed § 87(2)(b)'s wrist and pulled his arms upwards off of his back, causing him pain; however, § 87(2)(b) did not make this allegation himself, so that specific force allegation has not been pleaded.)

Sgt. Aspinall was on patrol with PO Mastronardi and PO Sohn when he heard a radio run for a black male who was shot near Irving Street and Bleeker Street in Brooklyn. Sgt. Aspinall's unit was the first to arrive to the location, and they observed § 87(2)(b) standing outside wearing a white shirt that was ripped. § 87(2)(b) was also bloodied, but Sgt. Aspinall could not recall from where § 87(2)(b) was bleeding. Sgt. Aspinall asked § 87(2)(b) if he was shot, to which he responded that he was not and that he had gotten into a fight with his girlfriend, § 87(2)(b) and that she had assaulted him. Sgt. Aspinall asked him if he needed any medical attention, but § 87(2)(b) refused. § 87(2)(b) did not specify what his girlfriend did to assault him; only that they got angry and got into a fight. Sgt. Aspinall believed § 87(2)(b) to be "a little" intoxicated because he smelled of alcohol. Shortly thereafter, a female relative of § 87(2)(b) exited 308 Bleeker Street, and corroborated that there had been a fight and that § 87(2)(b) hit § 87(2)(b). She also stated that § 87(2)(b) was "around the corner." § 87(2)(b) hearing the statement from § 87(2)(b)'s sister, then ran to the corner looking for § 87(2)(b). Sgt. Aspinall and his two partners followed § 87(2)(b) to make sure that there were no further incidents. During this time, Lt. Lewis had already arrived at the location. As Sgt. Aspinall went around the corner, he observed § 87(2)(b) and § 87(2)(b) arguing with each other, and Sgt. Aspinall separated the two. After separating § 87(2)(b) and § 87(2)(b), § 87(2)(b) ran behind a waist-high fence of a building on the corner. § 87(2)(b) was still arguing with § 87(2)(b). Lt. Lewis went to speak with § 87(2)(b) during which § 87(2)(b) screamed at Lt. Lewis. Lt. Lewis was telling § 87(2)(b) to relax and that they were going to take care of the situation. During this time, § 87(2)(b) was nearby and stated, "Give me my phone back." § 87(2)(b) responded, "I don't have your effin phone." It then appeared that § 87(2)(b) "took a swing" at Lt. Lewis, who was standing in front of § 87(2)(b) on the other side of the fence. Sgt. Aspinall explained that § 87(2)(b) made a motion with his right arm and a semi-closed fist. When § 87(2)(b) performed said action, he and Lt. Lewis were a few inches away from each other. Lt. Lewis reacted by moving to his side as if to get out of the way. Sgt. Aspinall and PO Sohn then went behind the fence, grabbed § 87(2)(b) by his arms, placed him in handcuffs. § 87(2)(b) "resisted a little bit" by tensing his arms, but PO Sohn and Sgt. Aspinall managed to overcome his resistance by grabbing his arms and putting his hands behind his back. Sgt. Aspinall denied that he or PO Sohn

used any additional force to handcuff § 87(2)(b) and they denied that he was ever pushed to the ground. Sgt. Aspinall denied kneeling § 87(2)(b) in the back or bending § 87(2)(b)'s finger, and he denied that any other officer did so.

PO Sohn's and PO Mastronardi's statements were generally consistent with Sgt. Aspinall's, and they both stated that they observed § 87(2)(b) "take a swing" at Lt. Lewis. PO Sohn stated that he was not assisted by any other officer in placing § 87(2)(b) in handcuffs, § 87(2)(b) did not resist being placed in handcuffs, and no force was used to place him in handcuffs. PO Sohn denied taking § 87(2)(b) to the ground, he denied kneeling § 87(2)(b) in his back, and he denied bending § 87(2)(b)'s finger. PO Mastronardi stated that he did not observe § 87(2)(b) being placed in handcuffs, and he denied that § 87(2)(b) was taken to the ground, that an officer knelt him in the back, and that an officer bent § 87(2)(b)'s finger. PO Mastronardi did not have any physical interaction with § 87(2)(b).

Lt. Lewis' statement was generally consistent with Sgt. Aspinall's, except where otherwise noted. Lt. Lewis responded to the location in regards to an assault, but he had no recollection of a call regarding a male who was shot. Lt. Lewis first spoke with § 87(2)(b) and she informed him that § 87(2)(b) had her phone. While Lt. Lewis was speaking to § 87(2)(b) threw § 87(2)(b)'s cellphone across the street and broke it. At that point, § 87(2)(b) was considered to be under arrest for damaging the phone. Afterward, § 87(2)(b) went behind a fence that was in front of an apartment building. PO Sohn and a second officer, who Lt. Lewis could not identify, went behind the fence to place § 87(2)(b) under arrest. The two officers did not have to use any physical force to place him in handcuffs. Lt. Lewis added that § 87(2)(b) was cooperative while he was being placed under arrest. Lt. Lewis denied that he, or any other officer, pushed § 87(2)(b) causing him to fall to the ground. Lt. Lewis confirmed that he observed § 87(2)(b) on the ground at the arrest location. Lt. Lewis explained that § 87(2)(b) was made to sit down on the ground after he was placed in handcuffs while they waited to place him in an RMP. There were no issues making § 87(2)(b) sit on the ground. § 87(2)(b) did attempt to stand up while sitting on the ground, but Lt. Lewis put his hand out to prevent him from standing up. Lt. Lewis made physical contact with § 87(2)(b)'s chest, but did not use physical force. Afterward, § 87(2)(b) did not attempt to get up. Lt. Lewis denied that he, or any other officer, placed their knees on § 87(2)(b)'s back and caused him pain. Lt. Lewis denied that he, or any other officer, bent § 87(2)(b)'s finger while attempting to handcuff him. § 87(2)(b) did not complain that his finger was being bent or hurting during the handcuffing process. Lt. Lewis denied that he, or any other officer, lifted § 87(2)(b)'s arms while he was handcuffed to cause him pain.

§ 87(2)(b)'s Prehospital Care Report noted that § 87(2)(b) complained of pain and swelling to his right hand, which he "banged" on the ground while being arrested by officers. It was also noted that § 87(2)(b) had minor scratches to his face, but those occurred prior to his arrest (BR 01). § 87(2)(b)'s medical records from § 87(2)(b) noted that he informed hospital staff that officers knocked him to the ground and that he sustained an injury to his right hand. Imaging of his right hand did not find any evidence of dislocation. He was diagnosed with moderate soft tissue swelling and a boxer fracture to his right hand. § 87(2)(b) refused a splint (BR 02).

Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances. NYPD Patrol Guide, Section 221-01 (BR 12).

§ 87(2)(g)

§ 87(2)(g)

Allegation (E) Abuse of Authority: In the vicinity of Bleecker Street and Irving Avenue in Brooklyn, an officer interfered with § 87(2)(b)'s use of a recording device.

Allegation (F) Offensive Language: In the vicinity of Bleecker Street and Irving Avenue in Brooklyn, Lt. Henry Lewis made remarks to § 87(2)(b) based upon her gender.

After retrieving her phone, § 87(2)(b) alleged that she attempted to record the incident, but an officer – described as a black female with a heavy build and in uniform – “smacked § 87(2)(b) on the hand with which she was holding her cellphone. Her phone did not fall out of her hand. Afterward, § 87(2)(b) pressed the lock button on her phone, put the phone in her pocket, and walked away back towards Bleecker Street. § 87(2)(b) did not record any video. § 87(2)(b) then stated, “It be fucked up cops like ya’ll that mess it up for all the other good cops because ya’ll be dirty.” Lt. Lewis then allegedly said, “Lock that bitch up,” and § 87(2)(b) was placed in handcuffs.

§ 87(2)(b) alleged that while he was on the ground, he observed § 87(2)(b) approximately ten feet in front of him. § 87(2)(b) did not approach § 87(2)(b) but pulled out her cellphone to record. Lt. Lewis then allegedly stated, “Lock her ass up too.” § 87(2)(b) did not describe any females being present at the location. § 87(2)(g)

Lt. Lewis did not recall for what reason § 87(2)(b) was arrested, and he did not recall whether he specifically issued any instructions to place her under arrest. Lt. Lewis did not recall whether he, or any other officer, stated “lock her ass up” or “lock that bitch up.” Lt. Lewis did not observe § 87(2)(b) attempting to record the incident with a cellphone, nor did he observe any officer smack § 87(2)(b)'s hand to prevent her from recording. Lt. Lewis noted that PO Sobieski was the only uniformed female officer at the location.

PO Mastronardi and Sgt. Aspinall stated that Lt. Lewis instructed officers to arrest § 87(2)(b) but they denied that Lt. Lewis cursed when issuing the instruction. They also denied that any officer smacked § 87(2)(b)'s hand to prevent her from recording the incident. Sgt. Aspinall

also noted that PO Sobieski was the only female officer at the scene, and PO Mastronardi did not recall there being any black female officers at the scene. PO Sobieski had no recollection of an officer cursing at § 87(2)(b) and she denied that she, or any other officer, smacked § 87(2)(b)'s hand to prevent her from recording the incident on a cell phone. PO Sobieski did not recall if there were other officers at the scene. PO Sohn had no knowledge of § 87(2)(b)'s arrest, and he denied that any officer spoke offensively to her or prevented her from recording the incident by smacking her hand.

The Event Unit Information document determined that the following units responded to the location: 83SP88, 83LT1, and 83D1-1 (BR 03). The roll call determined that there were no black female officers assigned to any of those units, and that PO Sobieski was the only female officer at the scene (BR 04). According to PO Sobieski's MOS photo, § 87(2)(b)

§ 87(2)(g)

Allegation (G) Abuse of Authority: At the 83rd Precinct stationhouse, Sergeant Tara King made remarks based upon § 87(2)(b)'s perceived mental state.

Allegation (H) Abuse of Authority: At the 83rd Precinct stationhouse, § 87(2)(a)

At the stationhouse, § 87(2)(b) struggled against officers who wanted to place her inside of a room because she was "claustrophobic." She also informed the officers that she had been diagnosed with claustrophobia, bi-polar disorder, and anxiety and that she would "lose it" if placed in a little space. After placing § 87(2)(b) inside of the room, § 87(2)(b) began banging her head against the wall and on the bars. § 87(2)(b) was removed from that room and brought into another room, at which point Sgt. King allegedly called § 87(2)(b) "crazy" and "psycho." § 87(2)(a)

Eventually, an unidentified officer came into the cell area and saw § 87(2)(b) and provided her with a shirt that she could wear. Afterward, § 87(2)(b) was transported to § 87(2)(b). § 87(2)(b) did not provide any information during her statement that could help identify any potential witness officers of these allegations.

None of the officers interviewed for this case had any knowledge of § 87(2)(b)'s allegations while at the stationhouse.

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 07).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 08).
- Lt. Lewis has been a member-of-service for 13 years and has been a subject in eight allegations and three complaints, none of which were substantiated. § 87(2)(g)
- Sgt. Aspinall has been a member-of-service for 12 years and has been a subject in one previous allegation and one complaint, which was unfounded. § 87(2)(g)
- Sgt. King has been a member-of-service for 11 years and has been a subject in 11 allegations and six cases, none of which were substantiated. § 87(2)(g)
- PO Mastronardi has been a member-of-service for five years and has been a subject in six allegations and four cases, none of which were substantiated. § 87(2)(g)
- PO Sohn has been a member-of-service for five years and has been a subject in eight allegations and three cases, none of which were substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was unsuitable for mediation.
- § 87(2)(b) filed a Notice of Claim with the City of New York claiming personal, physical, and emotional injuries, and is seeking \$1,000,000 in redress (BR 09).
- § 87(2)(b);§§ 86(1)(3)(4);§ 87(2)(c)

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer:

Signature

Print Title & Name

Date